

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GORMIDOU Y. LAVELA,

Plaintiff,

v.

RANDELL D. PETERSON,

Defendant.

OPINION and ORDER

23-cv-483-jdp

I ordered defendant Randell D. Peterson to serve his answer on plaintiff Gormidou Y. Lavela in compliance with Federal Rule of Civil Procedure 5 by December 11, 2023, and to promptly file a certificate of service with the court. *See* Dkt. 12. Peterson has yet to serve his answer, and Lavela has moved for default judgment. Dkt. 13. I will reserve ruling on Lavela's motion and give Peterson a final chance to serve his answer.

"A district court may impose sanctions under its inherent authority where a party has willfully abused the judicial process or otherwise conducted litigation in bad faith." *Fuery v. City of Chicago*, 900 F.3d 450, 463 (7th Cir. 2018). "The court must first make a finding of bad faith, designed to obstruct the judicial process, or a violation of a court order." *Id.* "The appropriateness of lesser sanctions need not be explored if the circumstances justify imposition of the ultimate penalty." *See id.* at 464, 468. In this case, the ultimate penalty would be entry of default judgment against Peterson.

Peterson's failure to serve his answer on Lavela and file a certificate of service shows clear disregard for the judicial process and my order. Because Peterson is representing himself and appears to have a low income, a monetary sanction would be inappropriate. Other common sanctions (e.g., dismissing the case, limiting evidence, or barring certain defenses) are

impracticable in the circumstances. But because entry of default judgment is a most severe sanction, I will give Peterson a final chance to serve his answer on Lavela and file a certificate of service with the court. If Peterson fails to comply with this order, I will enter default judgment against him.

Lavela is not without fault here. In his motion, among other commentary, Lavela refers to Peterson as a “pig,” “drifter,” “dirtbag,” and “racist,” and he accuses me of issuing unfavorable rulings because of racism. Lavela’s name-calling, unfounded accusations, and sarcastic criticism have crossed the line into unacceptable discourtesy. Lavela is reminded that the court expects the parties to treat each other and the court with respect. Dkt. 4 at 5. Further abusive or threatening comments may result in sanctions, including entry of judgment against Lavela.

ORDER

IT IS ORDERED that:

1. The court reserves ruling on plaintiff Gormidou Y. Lavela’s motion for default judgment, Dkt. 13.
2. Defendant Randell D. Peterson has until January 29, 2024, to serve his answer on Lavela in accordance with Federal Rule of Civil Procedure 5, which he may do by mailing it to Lavela’s address of record: 607 North High Street, Apt. # 111, Chippewa Falls, WI 54729. Once Peterson has served his answer on Lavela, he must immediately file a certificate of service with the court.
3. If Peterson fails to comply with this order, the court will enter default judgment against him.

4. The clerk of court is directed to send Lavela and Peterson copies of this order.

Entered January 18, 2024.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge